

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554

In the Matter of)	
)	
)	
Petition Seeking Expansion of Online Public)	MB Dkt. 14-127
File Obligations to Cable and Satellite and)	
also on Expanding Online Public File)	
Obligations to Radio)	
)	

**REPLY COMMENTS OF CAMPAIGN LEGAL CENTER,
COMMON CAUSE, AND SUNLIGHT FOUNDATION**

Campaign Legal Center, Common Cause, and the Sunlight Foundation (“CLC, *et al.*”) urge the FCC to promptly issue a notice of proposed rulemaking to require cable operators, satellite operators, and radio stations to post their public inspection files online.¹

The comments in this docket reveal that there is little opposition to the petition for rulemaking and the proposal to extend the online filing requirement for radio. While the comments indicate that there are some minor issues to be worked out, they can be worked out in the notice and comment process.

I. Several elections are coming up, and the FCC should ensure its new online filing rule is in place so the public receives comprehensive political advertising information about those elections.

The FCC should move to propose and adopt online disclosure. The public file information, and particularly the political file, is of great interest to the public given the increased expenditures on political ads.² It is also important that the new disclosure rules be in place well before the 2016 presidential election. Ads looking to affect presidential campaigns

¹ Appendix A is a list of organizations that support these comments.

² *E.g.*, Matea Gold, *Wealthy Political Donors Seize on New Latitude to Give to Unlimited Candidates*, Wash. Post (Sept. 2, 2014), http://www.washingtonpost.com/politics/wealthy-political-donors-seize-on-new-latitude-to-give-to-unlimited-candidates/2014/09/01/d94aeefa-2f8c-11e4-bb9b-997ae96fad33_story.html.

typically begin more than a year before the November election. For example, in the 2012 presidential campaign, candidates began running ads as early as June 2011—seventeen months before the election.³ Thus, Americans can expect to begin hearing presidential campaign ads by June 2015 or perhaps earlier.

In addition, many contested elections will be held in 2015. Kentucky, Louisiana, and Mississippi hold gubernatorial elections next year.⁴ Chicago and Philadelphia, among other cities, hold mayoral elections next year.⁵

As a practical matter, the public's well-established right to know how much money is being spent and by whom on political advertising will not be a reality until the information is available online. Thus, the FCC should act quickly to adopt an online filing requirement for cable, satellite, and radio.

II. Small commercial radio stations should not be exempt, and stations may seek waivers of the online filing rule where appropriate.

Some commenters argued that small radio stations should be exempt from the online public file requirement and that the burden of the online file is too high.⁶ CLC, *et al.* oppose exempting small commercial radio stations. CLC, *et al.* are skeptical that filing documents through an online database imposes any real burden on stations. As the FCC concluded in the broadcast television proceeding, “using the online public file should often be quicker and more efficient [than using the physical public file.]”⁷

³ Primary Ads, P2012, <http://www.p2012.org/ads/adsprimary.html> (last visited Sept. 8, 2014).

⁴ United States Elections 2015, Wikipedia, https://en.wikipedia.org/wiki/United_States_elections,_2015 (last visited Sept. 8, 2014).

⁵ *Id.*

⁶ *E.g.*, Joint Comments of Local and Regional Small Radio Broadcasters at 2-3.

⁷ *Standardized and Enhanced Disclosure Requirements for Television Broadcast Licensee Public Interest Obligations, Second Report and Order*, 27 FCC Rcd 4535, ¶56 (2012).

The National Federation of Community Broadcasters proposed the FCC exempt, specifically, non-commercial educational (“NCE”) stations with five or fewer employees.⁸ CLC, *et al.* support a narrow exemption for NCEs with five or fewer employees because the smallest NCE stations may truly lack the resources to upload their public files online. CLC, *et al.* opposes any categorical exemption beyond that.

CLC, *et al.* support allowing waivers in certain, narrow circumstances where a station can show, for example, it is not physically capable of uploading the documents to the system (for instance, when the radio station lacks Internet access) or the station’s situation is such that online filing truly imposes a heavy burden. Given, however, the relative efficiencies of online filing, the burden for proving the latter waiver request should be high.

Conclusion

The Commission should act quickly to propose (and ultimately adopt) a rule requiring cable and satellite providers and radio stations to post their public files online.

Respectfully submitted

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⁸ See National Federation of Community Broadcasters Comments at 2.

APPENDIX A

Center for Science and Democracy at the Union of Concerned Scientists
Free Press
Government Accountability Project